

Vietnam-U.S. ICT Dialogue

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Effect of Convergence

- ❑ Reflect convergence by adopting a single legal framework for telecom, broadcasting and information technology (excluding content)
- ❑ New Communication Law should be:
 - technology neutral
 - allow traditional telecom companies to provide video services
 - allow broadcasters (cable TV and satellite) to provide voice and data services
 - incorporate access to and use of the internet for any service

Privatization of State-owned Enterprises

- ❑ Privatization does not have to come before liberalization
- ❑ First create a strong legal and regulatory environment that promotes competition
- ❑ The new law should abolish the requirement that network operators be SOEs
- ❑ The new law should allow private companies to construct and own communications networks, as well as providing services
- ❑ Vietnam's commitments in the WTO set a "floor" not a "ceiling"

Application of Asymmetric Regulation

- ❑ Vietnam should apply the principle of asymmetric regulation in the communications sector, so that only licensees with "significant market power" have an obligation to provide cost-based interconnection and are subject to stricter regulation.
- ❑ The new law should adopt a bright line test of market power and define "significant market power" as 30% market share.

Relationship of New Law to Existing Laws

- The new law should contain all provisions relating to communications, regardless of technology. Requires review of and changes to the media and publishing laws.
- An independent regulator should have the power to resolve disputes between:
 - incumbent carriers and new entrants
 - Consumers and licensees
 - BUT NOT between new entrants.
- Competition questions?
 - A general competition authority should have authority over mergers and consolidations in the sector and over anti-competitive conduct in an *ex post* manner.
 - A sector-specific regulator should have authority to impose *ex ante* rules to promote competition and prevent anti-competitive conduct.
 - Need a coordination mechanism.

Licensing and Spectrum Use

- ❑ Require individual licenses only for companies constructing network facilities or requiring scarce resources – spectrum, rights of way or numbers
- ❑ Create a class license which requires registration with the regulator prior to commencing service for service providers which do not require scarce resources, such as internet access providers, resellers (calling cards, call-back, pay phones)
- ❑ Exempt from licensing, but require notification to the regulator, companies providing private networks and terminal equipment (including VSATs) or using receive-only terminals
- ❑ Provide flexibility in spectrum use by authorizing the regulator to identify spectrum for unlicensed use and permitting spectrum trading

Independent Regulator

- Create a body separate from any ministry with the authority to regulate the communications market (but not content), while MIC retains the authority to set policy and approve the issuance of individual licenses